

A PRESENTATION
ON
GOODS AND SERVICES TAX
– AN OVERVIEW

BY



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GST –ROAD MAP

The Goods and Services Tax (GST) biggest reform in India's Indirect Tax Structure since Indian economy began to open up in 1991 and most significant revamp of the tax system post Independence in 1947.

The Lower house of Parliament passed The Constitution (122nd Amendment) Bill, 2014 on 3rd August, 2016 to make law in respect to GST. It was further ratified by Lok Sabha on 8th August, 2016.

The introduction of Goods and Services Tax (GST) would be a very significant step in the field of indirect tax reforms in India. By amalgamating a large number of Central and State taxes into a single tax, it would mitigate cascading or double taxation in a major way.



GST is a single tax on the supply of goods and services, right from the manufacturer to the consumer. Credits of input taxes paid at each stage will be available in the subsequent stage of value addition, which makes GST essentially a tax only on value addition at each stage. The final consumer will thus bear only the GST charged by the last dealer in the supply chain, with set-off benefits at all the previous stages.

The following presentation is an attempt to summaries the few provisions of the Proposed Model GST and IGST Act:

FROM PRESENT INDIRECT TAX STRUCTURE TO GST

Currently, we have Value-Added Tax (VAT) systems both at the central and state levels. But the central VAT or CENVAT mechanism extends tax set-offs only against central excise duty and service tax paid up to the level of production. CENVAT does not extend to value addition by the distributive trade below the stage of manufacturing; even manufacturers cannot claim set-off against other central taxes such as additional excise duty and surcharge.



Likewise, state VATs cover only sales. Sellers can claim credit only against VAT paid on previous purchases. The VAT also does not subsume a host of other taxes imposed within the states such as luxury and entertainment tax, octroi, etc.

GST is a destination based tax and levied at a single point at the time of consumption of Goods and Services. In India dual GST regime meaning by all the transaction of Goods and Services would attract to taxes:

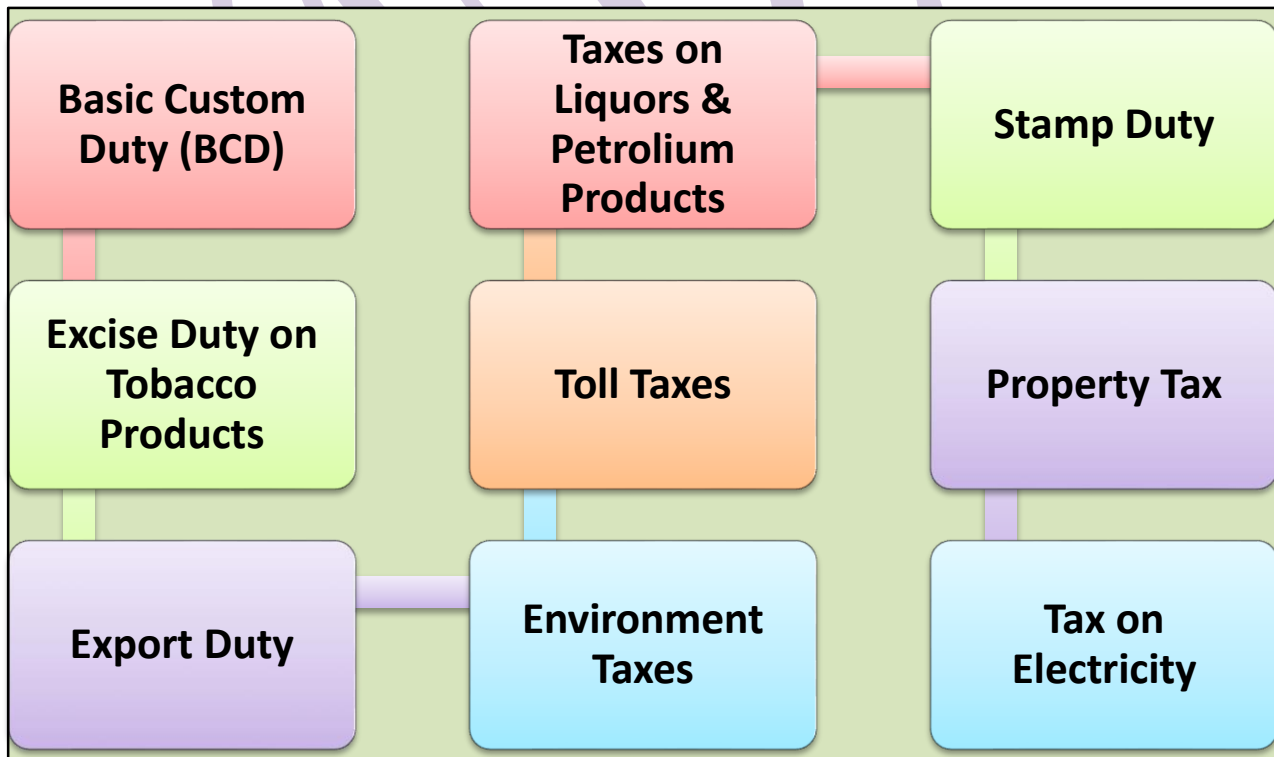
- CGST (Central Tax) and
- SGST (State Tax)

Inter State Goods and Service Tax (IGST) which will be approx equal to CGST plus SGST would be levied on all inter-state supply of goods or services in India. It would also be applicable to import of goods and services from Outside India.

The proposed GST would merge following taxes and only GST will be applied in lieu of following multiple taxes:

<u>Central Taxes to be Subsumed</u>	<u>State Taxes to be Subsumed</u>
Central Excise duty (CENVAT)	State VAT / Sales Tax
Additional duties of excise	Central Sales Tax
Excise duty levied under Medicinal & Toiletries Preparation Act	Purchase Tax
CVD (levied on imports in lieu of Excise duty)	Entertainment Tax (not levied by the local bodies)
SAD (levied on imports in lieu of VAT)	Luxury Tax
Service Tax	Entry Tax (All forms)-Octroi-LBT
Surcharges & Cess	Taxes on lottery, betting & gambling
	Surcharges & Cess

The following Taxes would remains in the present tax scenario and applies as per existing Laws:



HOW GST WILL WORK



DUAL GST MODEL

The new regime would levy the taxes for intra and inter state supply of goods and services as follows:

<u>Transaction</u>	<u>Taxes</u>	<u>Remarks</u>
Supply of Goods and Services within State	SGST and CGST	SGST and CGST both will be applicable simultaneously on all Transactions within a State. SGST will go to the State Government and CGST will go to the Central Government.
Supply of Goods and Services outside the State and Import of Goods and Services from Outside India	IGST	IGST will go to the Central Government and Central Government will compensate to the concerned State Government by transferring the credit.

UTILIZATION OF CREDIT

Credit of IGST, CGST and SGST can be utilized in the following sequence:

<u>IGST Credit</u>	<u>CGST Credit</u>	<u>SGST Credit</u>
Ist against IGST payment	Ist against CGST payment	Ist against SGST payment
IInd against CGST payment	IInd against IGST payment	IInd against IGST payment
IIIRD against SGST payment		

Note: There is no cross utilization permitted between CGST and SGST. SGST of one state cannot be utilized against SGST of another State.

TAXABILITY

GST as per above table will be levied on taxable person, **taxable event** i.e. “supply”, on **taxable point** i.e. “time of supply” and on taxable goods.

TAXABLE EVENT-SUPPLY

In GST regime tax would be levied on “**supply**” of goods and services. The existing concept of manufacturing of goods, provision of services and sale of goods would no longer be relevant. Supply has been defined under **Section 3 of Model GST Act** and also applicable to **IGST Act**.

The term ‘supply’ includes all forms of supply, such as sale, transfer, barter, exchange, license, rental, lease or disposal made in the course of business, and importation of service. Transactions between principal and agents are deemed to be supplies.

‘Supply’ also includes specified transactions such as permanent transfer of business assets, temporary application of business assets to a non-business use, services put to

non-business use, assets retained after deregistration, and supply by a taxable person to another taxable or non-taxable person in the course of business. However, supply of goods to a job worker would not be treated as supply.

It is specified that, inter alia, sale of under construction properties, temporary transfer of intellectual property rights, works contracts (including transfer of property in goods involved in execution of works contracts), and transfer of right to use any goods and development, upgradation, customization etc., of software would be supply of service.

TAXABLE POINT-TIME OF SUPPLY

In respect of Supply of Goods: The time of supply shall be determined by the earliest of the followings –

- Date of Removal of Goods;
- Date on which goods are made available to the recipient;
- Date of issuance of Invoice;
- Date of receipt of payment;
- Date on which recipient reflects the goods in his books of accounts.

In respect of Supply of Services: The time of supply shall be determined by the earliest of the followings –

- Date of issuance of Invoice - Where invoice is issued within the prescribed time;
- Date of receipt of payment;
- Date of completion of services - Where invoice is not issued within the prescribed time;
- Date on which recipient reflect the receipt of services in books of accounts.

PLACE OF SUPPLY OF GOODS AND SERVICES

The importance of determination of place of supply lies in identification of nature of supply as interstate or intrastate based on which CGST and SGST/ IGST would be

applicable. Similarly it is relevant to determine Import or Export of the Goods and Services.

Place of Supply of Goods:

Section 5 of Model IGST law provides for provisions to determine the place of supply of goods. The principles of place of supply of goods are tabulated below:

Situation	Place of Supply
Where supply involves movement of goods	Location of goods when movement of goods terminate for delivery to recipient
Where goods are delivered on directions of third person (transfer of documents)	Principal place of business of third person who shall be deemed to have received the goods
Where no movement of goods is involved	Location of goods at the time of delivery to the recipient
Where goods are assembled / installed at site	Place of installation or assembly
Where goods are supplied on board a conveyance	Location at which goods are taken on board
Residual situation not falling in above specified ones	To be determined by law on recommendation of the Council

Place of Supply of Services:

Section 6 of the Model IGST law provides for determining the place of supply in case of services. Location of service providers and Location of Service receiver play an important role in determining the place of supply. Location of service provider and service receiver has been provided below:

Location of Service Provider means:

1. Location of Business Establishment (where a supply is made from a business establishment registered under GST Law);
2. Location of Fixed Establishment (where a supply is made from a place not registered under GST Law);
3. Where a supply is made from more than one establishment, whether business or fixed, the location of the establishment most directly concerned with the provision of the supply;
4. In absence of such places (1 to 3 above), the location of the usual place of residence of the person.

Location of Service Receiver means:

1. Location of Business Establishment (where a supply is received at a business establishment registered under GST Law);
2. Location of Fixed Establishment (where a supply is received at a place not registered under GST Law);
3. Where a supply is received at more than one establishment, whether business or fixed, the location of the establishment most directly concerned with the receipt of the supply;
4. In absence of such places (1 to 3 above), the location of the usual place of residence of the person.

Determination of Place of Supply of a Service:

- ✚ Where a service is provided to a registered person, then place of supply shall be the “**Location of such service receiver**”.
- ✚ Where a service is provided to an unregistered person then place of supply shall be the “**Location of service receiver**” if address on records is available, otherwise “**Location of service provider**”.

There are various exceptions where specific rules have been provided for determination of place of supply. These exceptions are:

- Services pertaining to immovable property;

- Performance based services;
- Event based services;
- Goods transportation services;
- Passengers transportation services;
- Services on board or conveyance;
- Telecommunication services including data transfer, broadcasting, cable and DTH services;
- Banking and other financial services;
- Insurance services;
- Advertisement services to Central Government, State Government, Statutory bodies and Local Authority.

INPUT CREDIT

Section 16 of the Model GST Act describes the manner under which input tax credit can be availed under GST:

- **Input tax credit is available only if the following conditions are met:**
 1. The input tax credit should be taken within one year from the date of issue of tax invoice;
 2. The buyer must have received the goods / services;
 3. The buyer is in possession of the tax invoice, supplementary invoice, credit note or debit note or any other taxpaying document as specified;
 4. In case if goods are received in installments, the input credit is allowed only on receipt of the last lot or installment.
- Input tax credit is available when the seller pays the taxes, the electronic credit ledger for the buyer will be credited.
- If a registered tax payer uses input of goods or services for taxable and non-taxable purposes, the amount of input tax is allowed only on the portion of the input used supply of taxable goods or services including zero rated supplies.

- If there is change in the constitution of the taxable person on account of merger, sale, demerger, amalgamation, lease or transfer of business, the input tax credit is allowed to be transferred.

- **Input tax credit not available in the following cases:**
 1. Input tax credit on motor vehicles except when they are supplied in the usual course of business or used for providing following taxable services:
 - Transportation of goods;
 - Transportation of passengers;
 - Imparting training on motor driving skills.
 2. On purchases from composite dealer;
 3. Input tax credit on goods or services used for private consumption;
 4. If input tax credit is claimed then depreciation benefit on the tax is not allowed for computation of depreciation under Income Tax Act 1961;
 5. Goods and / or services provided in relation to food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as leave or home travel concession, when such goods and/or services are used primarily for personal use or consumption of any employee;

INPUT CREDIT - TRANSITIONAL PROVISIONS

As per section 143(1), the taxpayer shall be eligible to carry forward the Cenvat credit reflected by him/her in the returns filed under the earlier laws. The only condition where such carry forward shall not be allowed is when the Cenvat credit permissible under the earlier law is not admissible under the GST Law for that particular input/capital goods/input services.

REGISTRATION UNDER GST

THRESHOLD LIMIT FOR REGISTRATION/TAX PAYMENT

- A person is required to take registration if his aggregate turnover in a financial year exceeds INR 9 lakhs. However, tax liability shall arise only once the aggregate turnover in a financial year exceeds INR 10 lakhs.
- For the North Eastern States, the aforesaid limits are INR 4 lakhs and INR 5 lakhs respectively.

PLACE OF REGISTRATION

- A taxable person has to take registration in the State(s) from where taxable goods or services are supplied.

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